

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SHARON BROCK,
Plaintiff,
v.
BANKERS LIFE AND
CASUALTY COMPANY,
Defendant.

Case No. 2:22-cv-08762-MEMF(PVCx)
STIPULATED PROTECTIVE ORDER

INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment

1 under the applicable legal principles. The parties further acknowledge, as set forth
 2 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
 3 file confidential information under seal; Civil Local Rule 79-5 sets forth the
 4 procedures that must be followed and the standards that will be applied when a
 5 party seeks permission from the court to file material under seal.

6 1.2 GOOD CAUSE STATEMENT

7 In the course of litigating and taking discovery in the action, the Parties may
 8 need to produce competitively sensitive, confidential, and proprietary business
 9 information and/or private personal, medical, or financial information, including the
 10 following categories:

11 (a) commercially sensitive and proprietary internal, financial or
 12 actuarial material, including manuals, guidelines, policies and procedures related to
 13 an insurer's evaluation of claims, which have been sought by Plaintiff in discovery;

14 (b) non-public personal identifying information (including,
 15 addresses, social security numbers and dates of birth), and health and financial
 16 information relating to the policy or policies at issue in this action, the disclosure of
 17 which would potentially violate state and federal privacy laws, including but not
 18 limited to the California Insurance Information and Privacy Protection Act, Cal. Ins.
 19 Code § 791, *et seq.*, the California Financial Information Protection Act, Cal. Fin.
 20 Code § 4050, *et seq.*, and the Gramm-Leach-Bliley Act, 15 U.S.C. 6801, *et seq.*

21 (c) documents that reveal confidential financial information about a
 22 party's business or commercial information about a party's business that is not
 23 available to the public or its competitors, which if disclosed could place the party at
 24 a competitive disadvantage, including manuals, guidelines, policies and procedures
 25 related to an insurer's evaluation of claims, which have been sought by Plaintiff in
 26 discovery; and

27 (d) commercially sensitive and proprietary, confidential information
 28 that constitutes, discusses or reflects trade secrets entitled to protection under various

1 laws and regulations, including but not limited to California's Uniform Trade Secret
 2 Act.

3 Accordingly, to expedite the flow of information, to facilitate the prompt
 4 resolution of disputes over confidentiality of discovery materials, to adequately
 5 protect information the parties are entitled to keep confidential, to ensure that the
 6 parties are permitted reasonable necessary uses of such material in preparation for
 7 and in the conduct of trial, to address their handling at the end of the litigation, and
 8 serve the ends of justice, a protective order for such information is justified in this
 9 matter. It is the intent of the parties that information will not be designated as
 10 confidential for tactical reasons and that nothing be so designated without a good
 11 faith belief that it has been maintained in a confidential, non-public manner, and
 12 there is good cause why it should not be part of the public record of this case.

13 2. DEFINITIONS

14 2.1 Action: This pending federal lawsuit.

15 2.2 Challenging Party: A Party or Non-Party that challenges the
 16 designation of information or items under this Order.

17 2.3 "CONFIDENTIAL" Information or Items: Information (regardless of
 18 how it is generated, stored or maintained) or tangible things that qualify for
 19 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
 20 the Good Cause Statement.

21 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
 22 their support staff).

23 2.5 Designating Party: A Party or Non-Party that designates information
 24 or items that it produces in disclosures or in responses to discovery as
 25 "CONFIDENTIAL."

26 2.6 Disclosure or Discovery Material: All items or information, regardless
 27 of the medium or manner in which it is generated, stored, or maintained (including,
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1 among other things, testimony, transcripts, and tangible things), that are produced
2 or generated in disclosures or responses to discovery in this matter.

3 2.7 Expert: A person with specialized knowledge or experience in a
4 matter pertinent to the litigation who has been retained by a Party or its counsel to
5 serve as an expert witness or as a consultant in this Action.

6 2.8 House Counsel: Attorneys who are employees of a party to this
7 Action. House Counsel does not include Outside Counsel of Record or any other
8 outside counsel.

9 2.9 Non-Party: Any natural person, partnership, corporation, association,
10 or other legal entity not named as a Party to this action.

11 2.10 Outside Counsel of Record: Attorneys who are not employees of a
12 party to this Action but are retained to represent or advise a party to this Action and
13 have appeared in this Action on behalf of that party or are affiliated with a law firm
14 which has appeared on behalf of that party, and includes support staff.

15 2.11 Party: Any party to this Action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and their
17 support staffs).

18 2.12 Producing Party: A Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.

20 2.13 Professional Vendors: Persons or entities that provide litigation
21 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.

24 2.14 Protected Material: Any Disclosure or Discovery Material that is
25 designated as “CONFIDENTIAL.”

26 2.15 Receiving Party: A Party that receives Disclosure or Discovery
27 Material from a Producing Party.

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1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only
 3 Protected Material (as defined above), but also (1) any information copied or
 4 extracted from Protected Material; (2) all copies, excerpts, summaries, or
 5 compilations of Protected Material; and (3) any testimony, conversations, or
 6 presentations by Parties or their Counsel that might reveal Protected Material.

7 Any use of Protected Material at trial will be governed by the orders of the
 8 trial judge. This Order does not govern the use of Protected Material at trial.

9 4. DURATION

10 Even after final disposition of this litigation, the confidentiality obligations
 11 imposed by this Order will remain in effect until a Designating Party agrees
 12 otherwise in writing or a court order otherwise directs. Final disposition will be
 13 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
 14 with or without prejudice; and (2) final judgment herein after the completion and
 15 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
 16 including the time limits for filing any motions or applications for extension of time
 17 pursuant to applicable law.

18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.
 20 Each Party or Non-Party that designates information or items for protection under
 21 this Order must take care to limit any such designation to specific material that
 22 qualifies under the appropriate standards. The Designating Party must designate for
 23 protection only those parts of material, documents, items, or oral or written
 24 communications that qualify so that other portions of the material, documents,
 25 items, or communications for which protection is not warranted are not swept
 26 unjustifiably within the ambit of this Order.

27 Mass, indiscriminate, or routinized designations are prohibited. Designations
 28 that are shown to be clearly unjustified or that have been made for an improper

1 purpose (e.g., to unnecessarily encumber the case development process or to
 2 impose unnecessary expenses and burdens on other parties) may expose the
 3 Designating Party to sanctions.

4 If it comes to a Designating Party's attention that information or items that it
 5 designated for protection do not qualify for protection, that Designating Party must
 6 promptly notify all other Parties that it is withdrawing the inapplicable designation.

7 5.2 Manner and Timing of Designations. Except as otherwise provided in
 8 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
 9 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
 10 under this Order must be clearly so designated before the material is disclosed or
 11 produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic
 14 documents, but excluding transcripts of depositions or other pretrial or trial
 15 proceedings), that the Producing Party affix at a minimum, the legend
 16 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
 17 contains protected material. If only a portion or portions of the material on a page
 18 qualifies for protection, the Producing Party also must clearly identify the protected
 19 portion(s) (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection
 21 need not designate them for protection until after the inspecting Party has indicated
 22 which documents it would like copied and produced. During the inspection and
 23 before the designation, all of the material made available for inspection will be
 24 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
 25 documents it wants copied and produced, the Producing Party must determine
 26 which documents, or portions thereof, qualify for protection under this Order. Then,
 27 before producing the specified documents, the Producing Party must affix the
 28 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a

portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions, the information disclosed therein, and the transcripts thereof shall presumptively be treated as CONFIDENTIAL and subject to this Order during the deposition and for a period of thirty (30) days after a transcript of said deposition is received by Counsel for each Party. At or before the end of such thirty-day period, the deposition shall be classified appropriately by notifying all of the Parties in writing of the specific pages and lines of the transcript which should be treated as CONFIDENTIAL thereafter.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, will identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court’s Scheduling Order. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation,

1 a Party does not waive its right to challenge a confidentiality designation by
 2 electing not to mount a challenge promptly after the original designation is
 3 disclosed.

4 6.2 Meet and Confer. The Challenging Party will initiate the dispute
 5 resolution process (and, if necessary, file a discovery motion) under Local Rule
 6 37.1 et seq.

7 6.3 The burden of persuasion in any such challenge proceeding will be on
 8 the Designating Party. Frivolous challenges, and those made for an improper
 9 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
 10 parties) may expose the Challenging Party to sanctions. Unless the Designating
 11 Party has waived or withdrawn the confidentiality designation, all parties will
 12 continue to afford the material in question the level of protection to which it is
 13 entitled under the Producing Party's designation until the Court rules on the
 14 challenge.

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 17 disclosed or produced by another Party or by a Non-Party in connection with this
 18 Action only for prosecuting, defending, or attempting to settle this Action. Such
 19 Protected Material may be disclosed only to the categories of persons and under the
 20 conditions described in this Order. When the Action has been terminated, a
 21 Receiving Party must comply with the provisions of section 13 below (FINAL
 22 DISPOSITION).

23 Protected Material must be stored and maintained by a Receiving Party at a
 24 location and in a secure manner that ensures that access is limited to the persons
 25 authorized under this Order.

26 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
 27 otherwise ordered by the court or permitted in writing by the Designating Party, a
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Receiving Party may disclose any information or item designated
“CONFIDENTIAL” only to:

(a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the Court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses ,and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
 2 IN OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation
 4 that compels disclosure of any information or items designated in this Action as
 5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification
 7 will include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order
 9 to issue in the other litigation that some or all of the material covered by the
 10 subpoena or order is subject to this Protective Order. Such notification will include
 11 a copy of this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be
 13 pursued by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with
 15 the subpoena or court order will not produce any information designated in this
 16 action as “CONFIDENTIAL” before a determination by the court from which the
 17 subpoena or order issued, unless the Party has obtained the Designating Party’s
 18 permission. The Designating Party will bear the burden and expense of seeking
 19 protection in that court of its confidential material and nothing in these provisions
 20 should be construed as authorizing or encouraging a Receiving Party in this Action
 21 to disobey a lawful directive from another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
 23 PRODUCED IN THIS LITIGATION

24 (a) The terms of this Order are applicable to information produced by a
 25 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
 26 produced by Non-Parties in connection with this litigation is protected by the
 27 remedies and relief provided by this Order. Nothing in these provisions should be
 28 construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party will:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party will not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party will bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of

1 this Order, and (d) request such person or persons to execute the “Acknowledgment
 2 and Agreement to Be Bound” that is attached hereto as Exhibit A.

3 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 4 **PROTECTED MATERIAL**

5 When a Producing Party gives notice to Receiving Parties that certain
 6 inadvertently produced material is subject to a claim of privilege or other
 7 protection, the obligations of the Receiving Parties are those set forth in Federal
 8 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
 9 whatever procedure may be established in an e-discovery order that provides for
 10 production without prior privilege review. Pursuant to Federal Rule of Evidence
 11 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
 12 of a communication or information covered by the attorney-client privilege or work
 13 product protection, the parties may incorporate their agreement in the stipulated
 14 protective order submitted to the court.

15 **12. MISCELLANEOUS**

16 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 17 person to seek its modification by the Court in the future.

18 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 19 Protective Order no Party waives any right it otherwise would have to object to
 20 disclosing or producing any information or item on any ground not addressed in
 21 this Stipulated Protective Order. Similarly, no Party waives any right to object on
 22 any ground to use in evidence of any of the material covered by this Protective
 23 Order.

24 12.3 Filing Protected Material. A Party that seeks to file under seal any
 25 Protected Material must comply with Civil Local Rule 79-5. Protected Material
 26 may only be filed under seal pursuant to a court order authorizing the sealing of the
 27 specific Protected Material at issue. If a Party's request to file Protected Material
 28

1 under seal is denied by the court, then the Receiving Party may file the information
 2 in the public record unless otherwise instructed by the court.

3 **13. FINAL DISPOSITION**

4 Within 60 days after the final disposition of this Action, as defined in
 5 paragraph 4, each Receiving Party must return all Protected Material to the
 6 Producing Party or destroy such material. As used in this subdivision, “all
 7 Protected Material” includes all copies, abstracts, compilations, summaries, and any
 8 other format reproducing or capturing any of the Protected Material. Whether the
 9 Protected Material is returned or destroyed, the Receiving Party must submit a
 10 written certification to the Producing Party (and, if not the same person or entity, to
 11 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
 12 appropriate) all the Protected Material that was returned or destroyed and (2)
 13 affirms that the Receiving Party has not retained any copies, abstracts,
 14 compilations, summaries or any other format reproducing or capturing any of the
 15 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
 16 archival copy of all pleadings, motion papers, trial, deposition, and hearing
 17 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
 18 reports, attorney work product, and consultant and expert work product, even if
 19 such materials contain Protected Material. Any such archival copies that contain or
 20 constitute Protected Material remain subject to this Protective Order as set forth in
 21 Section 4 (DURATION).

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14. Any willful violation of this Order may be punished by civil or criminal contempt proceedings, financial or evidentiary sanctions, reference to disciplinary authorities, or other appropriate action at the discretion of the Court.

FOR GOOD CAUSE SHOWN BY THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: May 22, 2023

Paul Miller

HON. PEDRO V. CASTILLO
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
[full address], declare under penalty of perjury that I have read in its entirety and
understand the Stipulated Protective Order that was issued by the United States
District Court for the Central District of California on [date] in the case of
_____ *Brock v. Bankers Life and Casualty Company*, 2:22-CV-08762-
MEMF (PVCx). I agree to comply with and to be bound by all the terms of this
Stipulated Protective Order and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item
that is subject to this Stipulated Protective Order to any person or entity except in
strict compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court
15 for the Central District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action. I hereby appoint _____ [full
18 name] of _____ [full address and
19 telephone number] as my California agent for service of process in connection
20 with this action or any proceedings related to enforcement of this Stipulated
21 Protective Order

22 || Date:

23 City and State where signed:

24 Printed name:

25 || Signature:

26 ||